

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Brian E. Bailey, Commissioner *BEB*

RE: Changes to the Processes of Advertising, Reviewing, and Adopting Budgets, Tax Levies, and Tax Rates Pursuant to IC 6-1.1-17-3, IC 6-1.1-17-3.5, and IC 6-1.1-17-20

DATE: May 21, 2012

Introduction

On March 19, 2012, Governor Mitch Daniels signed into law House Enrolled Act 1072 ("HEA 1072"). Section 23 of HEA 1072 amends IC 6-1.1-17-3, modifying the procedures by which political subdivisions provide public notice of their proposed budgets, tax levies, and tax rates. Section 24 amends IC 6-1.1-17-3.5, altering the process by which a county fiscal body performs a non-binding review of the proposed budget, tax levies, and tax rates of a taxing unit ("unit") not governed by IC 6-1.1-17-20 or IC 6-1.1-17-20.3.¹ Section 27 amends IC 6-1.1-17-20, revising the process by which town, city, and county fiscal bodies adopt the budgets, tax levies, and tax rates of certain units.

These amendments, which take effect July 1, 2012, establish a budget advertisement and adoption schedule as follows:²

- September 1: Last possible day for a unit to submit its proposed budget, tax levies, and tax rates to the appropriate fiscal body for review or adoption by that fiscal body.
- September 13: Last possible day for unit or fiscal body to publish the first advertisement of its proposed budget, tax levies, and tax rates and the time and place at which the unit or fiscal body will hold a public hearing on these matters.
- September 20: Last possible day for unit or fiscal body to publish second advertisement.
- October 1: Last possible day for county fiscal body to perform a non-binding review pursuant to IC 6-1.1-17-3.5.
- November 1: Last possible day for unit or fiscal body to adopt a budget, tax levy, and tax rate.

¹ Indiana Code 6-1.1-17-20.3 governs libraries headed by a majority of unelected officials and whose proposed budgets have increased by a percentage greater than the assessed value growth quotient. The Department addresses IC 6-1.1-17-20.3 in a separate memorandum.

² If one of the dates listed falls on a weekend or holiday, an adjustment to the deadline may be necessary.

This memorandum address the changes made by Sections 23, 24, and 27 of HEA 1072.

Changes to IC 6-1.1-17-3

Pursuant to IC 6-1.1-17-3, as amended by HEA 1072, the proper officers of a political subdivision must formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the Department of Local Government Finance (“Department”) and approved by the State Board of Accounts.

The political subdivision or appropriate fiscal body, if the political subdivision is subject to IC 6-1.1-17-20, must give notice by publication to taxpayers of:

- 1) the estimated budget;
- 2) the estimated maximum permissible levy;
- 3) the current and proposed tax levies of each fund; and
- 4) the amounts of excessive levy appeals to be requested.

The political subdivision or appropriate fiscal body must also state the time and place at which the political subdivision or appropriate fiscal body will hold a public hearing on these items. The political subdivision or appropriate fiscal body must publish the notice twice in accordance with IC 5-3-1 with the first publication at least ten days before the date fixed for the public hearing.

The first publication must be before September 14 and the second publication must be before September 21. The political subdivision must pay for the publishing of the notice.

Subsections (b) and (c) of IC 6-1.1-17-3 remain unchanged. Subsection 3(d), a provision that expired in 2009, is repealed.

Changes to IC 6-1.1-17-3.5

Submission of Information to County Fiscal Body

If a unit (other than the county itself and one not governed by IC 6-1.1-17-20 or IC 6-1.1-17-20.3) will impose property taxes due and payable in the ensuing calendar year, the unit must—**by September 1**—file the following information in the manner prescribed by the Department with the fiscal body of the county in which the unit is located:

- 1) a statement of the proposed or estimated tax rate and tax levy for the unit for the ensuing budget year; and
- 2) in the case of a unit other than a school corporation, a copy of the unit’s proposed budget for the ensuing budget year.

In the case of a unit located in more than one county, the unit must file this information with the fiscal body of the county in which the greatest part of the unit’s net assessed valuation is located.

Non-Binding Review by County Fiscal Body

The county fiscal body must—**by October 1**—complete the following in a manner prescribed by the Department:

- 1) review any proposed or estimated tax rate or tax levy filed by a unit with the county fiscal body;
- 2) in the case of a unit other than a school corporation, review any proposed or estimated budget filed by a unit with the county fiscal body; and
- 3) in the case of a unit other than a school corporation, issue a nonbinding recommendation to a unit regarding the unit's proposed or estimated tax rate or tax levy or proposed budget.

This recommendation must include a comparison of any increase in the unit's budget or tax levy to:

- 1) the average increase in Indiana nonfarm personal income for the preceding six calendar years and the average increase in nonfarm personal income for the county for the preceding six calendar years; and
- 2) increases in the budgets and tax levies of other units in the county.

The Department must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.

Failure to Timely Submit Information or Perform Non-Binding Review

If a unit fails to timely file the required information with the appropriate county fiscal body, the most recent annual appropriations and annual tax levy of that unit are continued for the ensuing budget year.

If a county fiscal body fails to timely perform an obligatory non-binding review, the most recent annual appropriations and annual tax levy of the county are continued for the ensuing budget year.

Changes to IC 6-1.1-17-20

Indiana Code 6-1.1-17-20, as amended by HEA 1072, now applies to all political subdivisions headed by a majority of unelected officials, including school corporations, but not to public libraries or entities whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

Submission of Information to Appropriate Fiscal Body

If the assessed valuation of a unit is entirely contained within a city or town or, if it is not but the unit was originally established by the city or town, the unit's governing body must submit its

proposed budget and property tax levy to the city or town fiscal body in the manner prescribed by the Department **by September 1**. Otherwise, the governing body of the unit must submit its proposed budget and property tax levy to the county fiscal body in the county where the unit has the most assessed valuation in the manner prescribed by the Department **by September 1**.

Mandatory Adoption by Appropriate Fiscal Body

The fiscal body of the city, town, or county (whichever applies) must review each budget and proposed tax levy and adopt a final budget and tax levy for each unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

Failure to Timely Submit Information or Timely Adopt

If a unit fails to timely file the required information with the appropriate fiscal body, the most recent annual appropriations and annual tax levy of that unit are continued for the ensuing budget year.

If the appropriate fiscal body fails to timely perform an obligatory adoption not later than November 1 for any unit subject to IC 6-1.1-17-20, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.

Contact Information

Questions may be directed to Staff Attorney Mike Duffy at 317-233-9219 or mduffy@dlgf.in.gov.